

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16910
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On July 30, 2002, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1997 through 2000 in the total amount of \$437,372.

On September 30, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather chose to submit additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayer received income in excess of the filing requirements of Idaho Code section 63-3030. The Bureau searched the Tax Commission records and found the taxpayer did not file income tax returns for the tax years 1997 through 2000. The Bureau sent a letter to the taxpayer asking about his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau determined the taxpayer was required to file Idaho income tax returns. The Bureau prepared returns for the taxpayer [Redacted] and sent the taxpayer a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination. The taxpayer stated the Bureau did not account for the cost of the property sold or the expenses of his operations.

The taxpayer stated he would have returns prepared and submitted to the Bureau within the next 60 days.

The 60 days passed and the Bureau did not receive any returns. However, 30 days after that the taxpayer submitted a 1997 return. The Bureau retained the file awhile longer waiting for additional returns from the taxpayer. The returns never came. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving him two options for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. A follow-up letter was sent to the taxpayer, but still there was no response. Therefore, the Tax Commission decided the matter based upon the information available.

The information the Bureau received [Redacted] showed the taxpayer received income from real estate sales, agriculture subsidies, interest, and some other miscellaneous income. The amounts received each year exceeded the filing threshold of Idaho Code section 63-3030 for the taxpayer each year. The Bureau used this information to prepare returns for the taxpayer.

The taxpayer provided a return for 1997. The Tax Commission reviewed that return and found that it represented the taxpayer's Idaho taxable income better than the return the Bureau prepared. Therefore, the Tax Commission accepts the taxpayer's 1997 return in lieu of the return prepared by the Bureau.

The taxpayer's 1997 return resulted in a refund. However, Idaho Code sections 63-3024A and 63-3072 prohibit the refunding or crediting of overpayments of tax if a claim for the overpayments is not made within three years from the due date of the return. The taxpayer's 1997 return had a due date of April 15, 1998. The Bureau received the

taxpayer's 1997 return on January 6, 2003 well past the three-year statute for making a claim. Therefore, the refund claimed on the taxpayer's 1997 return is denied.

The taxpayer stated he would provide returns for 1998 through 2000; however, no returns were provided. The taxpayer did not provide anything to show that the returns prepared by the Bureau were incorrect or in error. The taxpayer has not met his burden of proof. Albertson's, Inc. v. State, Dept. of Revenue, State Tax Com'n, 106 Idaho 810, 683 P.2d 846 (1984). Therefore, the Tax Commission upholds the Bureau's determination for the taxable years 1998 through 2000.

The Bureau added interest and penalty to the taxpayer's tax deficiency. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

WHEREFORE, the Notice of Deficiency Determination dated July 30, 2002, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1997	\$ 0	\$ 0	\$ 0	\$ 0
1998	78,399	19,600	26,828	124,827
1999	29,019	7,255	7,815	44,089
2000	3,469	867	657	<u>4,993</u>
			TOTAL DUE	<u>\$173,909</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.

[Redacted]
